

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

VIRGIL RIVERS,

Defendant.  
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**MEMORANDUM AND ORDER**

Case No. 03-CR-1120 (FB)

*Appearances:*

*For the Plaintiff:*

DAVID CAREY WOLL, ESQ.  
Assistant United States Attorney  
United States Attorney's Office  
Criminal Division  
271 Cadman Plaza East  
Brooklyn, NY 11201

*For the Defendant:*

JAMES C. NEVILLE, ESQ.  
P.O. Box 1711  
16 North Washington Street  
Port Washington, NY 11050

**BLOCK, Senior District Judge:**

Virgil Rivers ("Rivers"), moving *pro se*, seeks an order disclosing the minutes of his grand jury hearings. For the following reasons, Rivers's motion is denied.

Fed. R. Crim. P. 6(e)(3)(E)(ii) permits a court to disclose grand jury minutes when a "defendant ... shows that a ground may exist to dismiss the indictment because of a matter that occurred before the grand jury." However, because Rivers's conviction by a petit jury cured "any potential defect in [his] grand jury proceeding," *United States v. Mechanik*, 475 U.S. 66, 70 (1986), he cannot carry his burden and make such a showing. See *United States v. Abcasis*, 785 F. Supp. 1113, 1119 (E.D.N.Y. 1992).

In any event, Rivers's assertion that the grand jury charged him with the "non-existing ... law [of] Bank Robbery Conspiracy, in violation of Title 18 USC § 2113" is patently

incorrect. Page two of the Superseding Indictment, conveniently not included in Rivers's moving papers, explicitly and correctly lists "Title 18, United States Code, Sections 371 and 3551 et seq." as the statutory basis for the crime of Bank Robbery Conspiracy charged in Count One.

**SO ORDERED.**

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FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
May 19, 2010